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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,363	12/29/2003	Young Gi Lee	2013P143	7778

8791 7590 01/10/2008
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
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EXAMINER

WEINER, LAURA S

ART UNIT	PAPER NUMBER
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1795

MAIL DATE	DELIVERY MODE
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01/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,363

Applicant(s)

LEE ET AL.

Examiner

Laura S. Weiner

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-12 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 13-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4-2-07.

Terminal Disclaimer

2. The terminal disclaimer filed on 12-10-07 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 7,211,352 has been reviewed and is accepted. The terminal disclaimer has been recorded. Therefore the rejection of claims 1-2, 5, 7-12 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4-10 of U.S. Patent No. 7,211,352 has been withdrawn.

Response to Arguments

3. Applicant's arguments with respect to claims 1-2, 7-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. Claims 1-2, 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. (6,723,467).

Art Unit: 1795

Yoshida et al. teaches in column 2, a battery comprising a separator interposed between a positive electrode and a negative electrode wherein the separator comprises a first porous layer containing a thermoplastic resin and a second porous layer having a higher heat resistance than that of the first porous layer laminated on the first porous layer. Yoshida et al. teaches in column 3, lines 40-45, is that the thermoplastic resin of the first porous layer can be polypropylene, polyethylene, etc. and teaches in column 3, lines 59-65, that the component forming the second porous layer can be an organic polymer, inorganic powder, organic powder, etc. Yoshida et al. teaches in column 4, lines 3-9, that the organic or inorganic material can be silica, alumina, titanium oxide, etc. Yoshida et al. teaches in column 5, lines 26-40, that the electrolytic solution containing lithium hexafluorophosphate with EC and 1,2-dimethoxyethane was injected.

Yoshida et al. claims the claimed invention except does not specifically teach that the second porous layer can comprise both an organic polymer and an inorganic material and that the first porous polymer has micro-scale morphology and the second porous film has submicro-scale morphology.

However, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the courts have held that where only the difference between the prior art and the claimed invention was recitation of relative dimensions of the claimed material and a material having the claimed relative dimensions would not perform differently than the prior art material, the claimed material was not patentably distinct from the prior art material. *See MPEP 2144.04*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use both materials an organic polymer and an inorganic material in the second porous layer taught by Yoshida et al. because it is prima facie obvious to combine two compositions each of which is taught by prior art to be useful for the same purpose in order to form a third composition that is to be used for the very same purpose. See *In re Kerkhoven*, 205 USPQ 1069; *In re Susi*, 169 USPQ 423..

Allowable Subject Matter

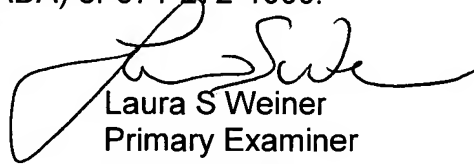
5. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura S. Weiner whose telephone number is 571-272-1294. The examiner can normally be reached on M-F (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1795

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Laura S Weiner
Primary Examiner
Art Unit 1795

January 2, 2008